



Department of Defense DIRECTIVE

NUMBER 5145.1

May 2, 2001

DA&M

SUBJECT: General Counsel of the Department of Defense

- References:
- (a) Title 10, United States Code
 - (b) DoD Directive 5145.1, subject as above, December 15, 1989 (hereby canceled)
 - (c) DoD 5500.7-R, "Joint Ethics Regulation," August 1993
 - (d) [DoD Directive 5145.3](#), "Surveillance of the DoD Security Programs," October 19, 1962
 - (e) through (p), see enclosure 1

1. REISSUANCE AND PURPOSE

Pursuant to the authorities provided in reference (a), this Directive reissues reference (b) in order to update the responsibilities, functions, relationships, and authorities of the General Counsel of the Department of Defense (GC, DoD) and to incorporate appropriate Deputy Secretary of Defense delegations of decision authorities.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as "the DoD Components").

3. RESPONSIBILITIES AND FUNCTIONS

The General Counsel, Department of Defense (GC, DoD), is the chief legal officer of the Department of Defense and shall:

3.1. Provide advice to the Secretary and Deputy Secretary of Defense regarding all legal matters and services performed within, or involving, the Department of Defense.

3.2. Provide legal advice to Office of the Secretary of Defense (OSD) organizations and, as appropriate, other DoD Components.

3.3. Oversee, as appropriate, legal services performed within the Department of Defense, including determining the adherence by attorneys in the Department of Defense to appropriate professional responsibility standards.

3.4. Coordinate on appeals from denials of requests under the Freedom of Information Act, as appropriate.

3.5. Establish policy for and oversee the Standards of Conduct Program within the Department of Defense.

3.6. Serve as the Designated Agency Ethics Official (DAEO) for OSD and all DoD organizations that are not defined as separate Agencies in DoD 5500.7-R (reference (c)), and designate an alternate DAEO and Deputy DAEOs, as appropriate.

3.7. Provide advice on standards of conduct involving personnel of OSD and, as appropriate, other DoD Components.

3.8. Develop and manage the DoD Legislative Program and coordinate DoD positions on legislation and Executive orders.

3.9. Provide for the coordination of significant legal issues before the Department of Justice, including litigation involving the Department of Defense and other matters in which the Department of Defense has an interest.

3.10. Establish DoD policy on general legal issues, determine the DoD position on specific legal problems, and resolve disagreements within the Department of Defense on such matters.

3.11. Perform such functions relating to the DoD security program (including surveillance over DoD personnel security programs in accordance with DoD Directive 5145.3 and DoD Directive O-5205.7 (references (d) and (e)) as the Secretary or Deputy Secretary of Defense may assign.

3.12. Act as lead counsel for the Department in all international negotiations conducted by OSD Components and coordinate on all proposed international agreements prior to their tender to prospective parties by OSD Components, prior to the initiation of negotiations, and prior to final conclusion of proposed international agreements; oversee legal reviews performed by DoD Components with respect to the negotiation and conclusion of international agreements in accordance with DoD Directive 5530.3 (reference (f)).

3.13. Maintain the central repository for all international agreements coordinated, negotiated, or concluded by DoD personnel.

3.14. Provide for guidance in, and coordination of, significant legal issues in international law, including those presented by military operations requiring the approval of the Secretary of Defense, the conduct of the DoD Law of War Program (reference (g)), and the review of the legality of weapons (reference (h)).

3.15. Perform the legal analysis and coordination of the impact on the Department of Defense of mergers and acquisitions involving major defense suppliers, and coordinate contacts between DoD personnel and the Government Agency responsible for the antitrust aspects related to such mergers and acquisitions, in accordance with DoD Directive 5000.62, (reference (i)); and review other agreements between competitors or potential competitors involving major defense suppliers, that may have an adverse impact on competition, and coordinate contacts between DoD personnel and the Government Agency responsible for the antitrust aspects related to such arrangements and agreements, in accordance with (reference (i)).

3.16. Determine whether legislation proposed by the Department of Defense or any DoD Component has federalism implications and/or imposes unfunded mandates.

3.17. Advise the Secretary and, as appropriate, other senior Government officials, on all military justice matters requiring the attention of the Secretary of Defense and provide oversight of the annual review of the Manual for Courts-Martial by the Joint Service Committee on Military Justice in accordance with DoD Directive 5500.17 (reference (j)).

3.18. Provide overall legal guidance on matters concerning the Office of Special Counsel in accordance with DoD Directive 5500.19 (reference (k)).

3.19. Coordinate on deployment orders.

3.20. Serve as the Director, Defense Legal Services Agency (DLSA).

3.21. Perform such other duties as the Secretary or Deputy Secretary of Defense may prescribe.

4. RELATIONSHIPS

4.1. In the performance of the above responsibilities and functions, the GC, DoD, shall:

4.1.1. Exercise direction, authority, and control over the Office of the General Counsel, DoD, and the DLSA, consistent with DoD Directive 5145.4 (reference (1)), and over other such subordinate officials and organizations as may be assigned.

4.1.2. Coordinate actions and exchange information with other OSD officials, Heads of DoD Components, and other Federal officials having collateral or related functions.

4.1.3. Serve as the representative of the Secretary of Defense to the Department of Justice on all appropriate matters.

4.1.4. Use existing facilities and services of the Department of Defense, or other Federal Agencies, to avoid duplication and, whenever practicable, to achieve maximum efficiency and economy.

4.2. Other OSD officials and Heads of the DoD Components shall coordinate with the GC, DoD, on matters related to the responsibilities and functions in section 3., above.

5. AUTHORITIES

The GC, DoD, is delegated authority to:

5.1. Issue DoD Instructions, DoD Publications, and one-time directive-type memoranda, consistent with DoD 5025.1-M (reference (m)), that implement policies

approved by the Secretary of Defense in the functions assigned to the GC, DoD. Instructions to the Military Departments shall be issued through the Secretaries of those Departments. Instructions to the Combatant Commands shall be issued through the Chairman of the Joint Chiefs of Staff (CJCS).

5.2. Obtain reports, information, advice, and assistance from other DoD Components, consistent with the policies and criteria of DoD Directive 8910.1 (reference (n)), as necessary.


5.3. Communicate directly with the Heads of the DoD Components. Communications to the Commanders of the Combatant Commands shall be transmitted through the CJCS.

5.4. Communicate with other Federal Departments and Agencies, representatives of the legislative branch, State and local government officials, and members of the public, as appropriate, in carrying out assigned functions.

5.5. Exercise the specific delegations of authority in enclosure 2.

6. EFFECTIVE DATE

This Directive is effective immediately.



Paul Wolfowitz
Deputy Secretary of Defense

Enclosures - 2

E1. References, continued

E2. Delegations of Authority

E1. ENCLOSURE 1

REFERENCES, continued

- (e) DoD Directive O-5205.7, "Special Access Program (SAP) Policy," January 13, 1997
- (f) [DoD Directive 5530.3](#), "International Agreements," June 11, 1987
- (g) [DoD Directive 5100.77](#), "DoD Law of War Program," December 9, 1998
- (h) [DoD Directive 5000.1](#), "The Defense Acquisition System," October 23, 2000
- (i) [DoD Directive 5000.62](#), "Impact of Mergers or Acquisitions of Major DoD Suppliers on DoD Programs," October 21, 1996
- (j) [DoD Directive 5500.17](#), "Role and Responsibilities of the Joint Service Committee on Military Justice," May 8, 1996
- (k) [DoD Directive 5500.19](#), "Cooperation with the Office of Special counsel of the Merit Systems Protection Board," December 6, 1985
- (l) [DoD Directive 5145.4](#), "Defense Legal Services Agency," December 15, 1989
- (m) [DoD 5025.1-M](#), "DoD Directives System Procedures," August 1994
- (n) [DoD Directive 8910.1](#), "Management and Control of Information Requirements," June 11, 1993
- (o) [DoD Directive 5145.5](#), "Alternative Dispute Resolution (ADR)," April 22, 1996

E2. ENCLOSURE 2

DELEGATIONS OF AUTHORITY

E2.1.1. Pursuant to the authority vested in the Secretary of Defense, and subject to the authority, direction, and control of the Secretary of Defense, the GC, DoD, is hereby delegated authority to:

E2.1.1.1. Grant or deny applications for waiver of indebtedness arising from the erroneous payment of pay (including salary) and allowances (including travel and transportation allowances) pursuant to 10 U.S.C. 2774(a)(1), 5 U.S.C. 5584(a)(1), and 32 U.S.C. 716(a)(1).

E2.1.1.2. Issue advance decisions pursuant to 31 U.S.C. 3529.

E2.1.1.3. Settle claims pursuant to 10 U.S.C. 2575, 32 U.S.C. 3702(e), 37 U.S.C. 554(h), and 1520 of the Armed Forces Retirement Home Act of 1991, Pub. L. 101-510 (42 U.S.C. 420).

E2.1.1.4. Serve as the DoD Dispute Resolution Specialist in accordance with the Administrative Dispute Resolution Act, Pub. L. 101-552, (5 U.S.C. 571 note), as amended by the Administrative Dispute Resolution Act of 1996, Pub. L. 104-320.

E2.1.1.5. Oversee and manage the DoD alternative dispute resolution program in accordance with the Administrative Dispute Resolution Act, as amended, and DoD Directive 5145.5 (reference (o)).

E2.1.1.6. Exclude any DoD employee or group of DoD employees in OSD from any or all of the reporting requirements of the confidential financial disclosure reporting system pursuant to 5 CFR 2634.905.

E2.1.2. The GC, DoD, may redelegate these authorities, as appropriate, and in writing, except as otherwise specifically indicated above, or as otherwise provided by law or regulation.

E2.1.3. These delegations of authority are effective immediately.